

United States District Court
District of Massachusetts

_____)	
UNITED STATES OF AMERICA,)	
)	
v.)	
)	
MARTIN GOTTESFELD)	Criminal Action No.
)	16-10305-NMG
Defendant.)	
_____)	

ORDER

GORTON, J.

In response to the Court's direction at the final pretrial conference on July 17, 2018, the government has submitted a supplemental brief regarding admission of certain evidence of "doxing" (Docket No. 266). The government has also filed a motion in limine seeking the admission of four kinds of evidence addressed in its trial brief (Docket No. 267). Defendant timely opposed both motions.

After careful consideration of the arguments and examination of the proposed exhibits, Proposed Exhibits 60, 97E, 120 and 121 will be **ADMITTED**, subject to the redactions proposed by the government, as evidence intrinsic to the charged conspiracy. See United States v. Robles-Alvarez, 874 F.3d 46, 50-51 (1st Cir. 2017). Such evidence is highly probative and

its probative value is not substantially outweighed by a danger of unfair prejudice under Fed. R. Evid. 403.

The government's motion in limine regarding matters addressed in its trial brief (Docket No. 267) is, with respect to (1) the record certifications, (2) the three proposed summary exhibits and (3) the opinion of Judge Johnston, **ALLOWED**, but, with respect to the recorded jail calls, **DENIED without prejudice**. Given the admission of defendant's statement from the Huffington Post, the probative value of the proposed calls is reduced and the risk of unfair prejudice is elevated because the jury is more likely to become aware of defendant's incarceration. The government may move for reconsideration of admission of the recorded calls, without the introductory statement identifying their origin, if defendant raises the implication that the Huffington Post statement was edited or altered.

As a matter of protocol, the government is directed to provide defendant notice of the first three witnesses it expects to call in its case-in-chief and the approximate length of the direct examination of each.

So ordered.

/s/ Nathaniel M. Gorton
Nathaniel M. Gorton
United States District Judge

Dated July 20, 2018